

Management Practices and the Law for Services

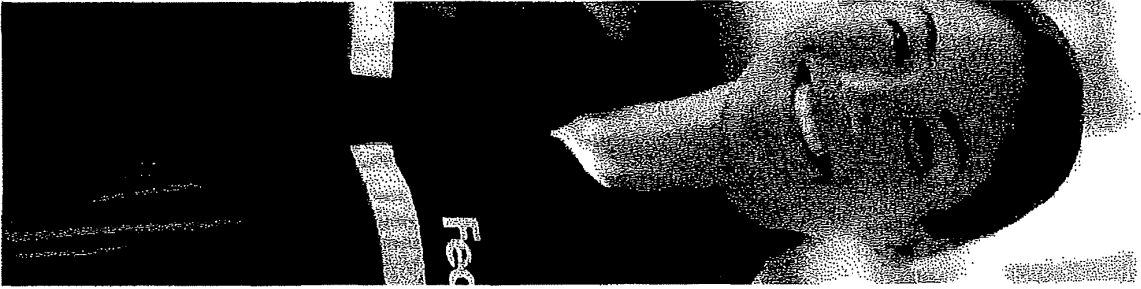


January 2016

Human Resources

1
FXS 2724

EXHIBIT
— 250 —



**You are the
decision maker!**

**We want your employment
decisions to be the best they
can be!**



January 2016

Human Resources

2

FXS 2725



Management Practices and the Law

OBJECTIVES OF THIS CLASS

- To provide information about labor & employment law that:
 - Can be used by every manager on the job to reduce liability for the company
 - Ensures that his/her actions align with company policy & the law
- To assist managers in identifying & properly acting upon potential legal issues
- To ensure managers are aware of available resources to assist them



January 2016

Human Resources

3

FXS 2726



Management Practices and the Law

Why don't we make good employment decisions?

- Lack of knowledge of the law
- Failure to ask for help & use all available resources
 - Inaccurate "Facts"
- Failure to act promptly and appropriately
- Failure to document



January 2016

Human Resources

4

FXS 2727



Management Practices and the Law

To make good employment decisions you will need to know:

- Relevant employment law
- On-line Employment Law Manual
- HR policies & procedures
- FedEx Code of Business Ethics & Conduct
- Who to call for assistance – your resources



January 2016

Human Resources

5

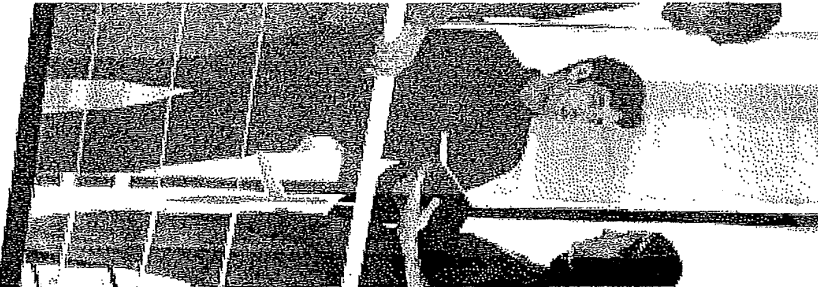
FXS 2728



Management Practices and the Law

“Having all new managers attend training is expensive, but let’s talk about an example of an employment decision that created liability for the Company.”

Results and Process



January 2016

Human Resources

6

FXS 2729



Management Practices and the Law

KEY EMPLOYMENT LAWS

Title VII	?
ADEA	?
ADA	?
FMLA	?
FLSA	?
EPA	?
NLRA/RLA	?
AA	?
IRCA	?
VEVRA	?
USERA	?
At Will	?



January 2016

Human Resources

7

FXS 2730



Management Practices and the Law

KEY EMPLOYMENT LAWS

Title VII		
ADEA		
FLSA		
FMLA		
USERRA		
AA		
NLRA/RLA		
ADA		
VEVRA		
EPA		
At Will		
IRCA		



January 2016

Human Resources

8

FXS 2731



FXS 2732

Management Practices and the Law

Fair Labor Standards Act (1938; amended 2004) (FLSA)

Covers

- Child Labor laws
- Sets the minimum wage
- Determines exemption status
- Regulates payment of overtime
- Sets breaks & meal periods



January 2016

Human Resources

21



Management Practices and the Law

FXS 2733

Exemption Status

Exempt employees* are paid for getting the work done regardless of hours worked.

Non-exempt employees are paid on an hourly basis & are paid overtime.



January 2016

Human Resources

22

* Resource/Project Tracking System



Management Practices and the Law

FXS 2734

5 Exemptions to Overtime

- **Executive** – Responsible for the operations of a company, function or division. Supervises 2 or more employees
- **Professional** – Advanced degree such as MD or CPA or engaged in the Arts
- **Administrative** – Exercises independent judgment & discretion in matters of significance to the company
- **Outside Sales** – Spends the majority of the work time out of the office, face to face with a customer
- **IT Professional** – Performs advanced IT functions such as analysis, development & design



January 2016

Human Resources

23



Management Practices and the Law

Equal Pay Act (1963) (EPA)

Men & women performing substantially the same work must be paid equally.

FXS 2735



January 2016

Human Resources

26



Management Practices and the Law

FXS 2736

Title VII of the Civil Rights Act of 1964

Protected Classes:

- Race
- Sex
- National Origin
- Religion
- Color



January 2016

Human Resources

27



Management Practices and the Law

FXS 2737

What Constitutes “Time Worked”?

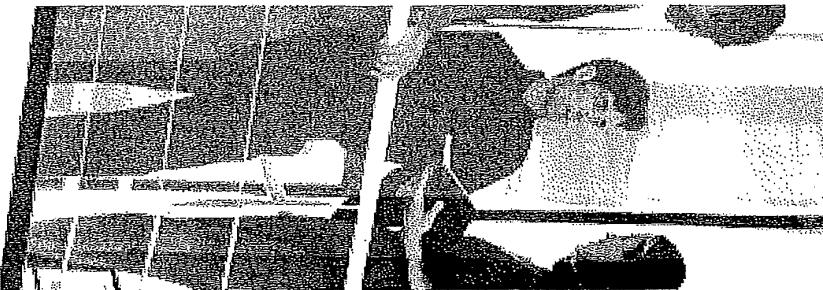
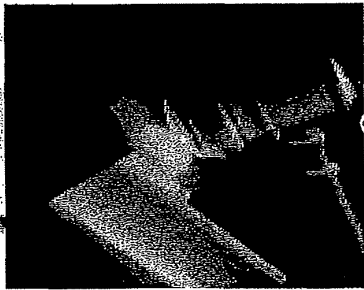
- Any time spent for the benefit of the company is time worked for overtime purposes.
- Includes:
 - Donning & doffing
 - Waiting to work
 - Travel between locations
 - Mandatory training
 - Mandatory attendance at meetings, meals, or entertainment
 - On-call



January 2016

Human Resources

24



Management Practices and the Law

FXS 2738

Breaks & Meals Periods

- FLSA requires a minimum 30 minute meal period relieved of all duties. May be unpaid. Employee may be required to remain on work premises.
- FLSA does not require breaks or specify their length but if given must be paid.



January 2016

Human Resources

25



Management Practices and the Law

FXS 2739

Plaintiff must show:

- They are a member of a protected class.
- They have been treated differently regarding some aspect of employment.



January 2016

Human Resources

28



FXS 2740

Management Practices and the Law

What is Sexual Harassment?

Section 703 of Title VII defines sexual harassment as:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.”



January 2016

Human Resources

32



Management Practices and the Law

FXS 2741

Company must show:

- Different treatment, if any, was not due to employee's protected status.

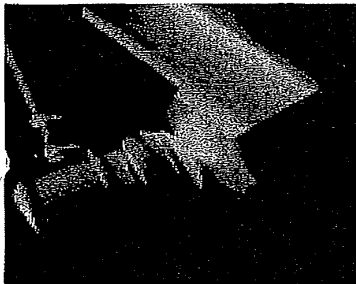
Rationale



January 2016

Human Resources

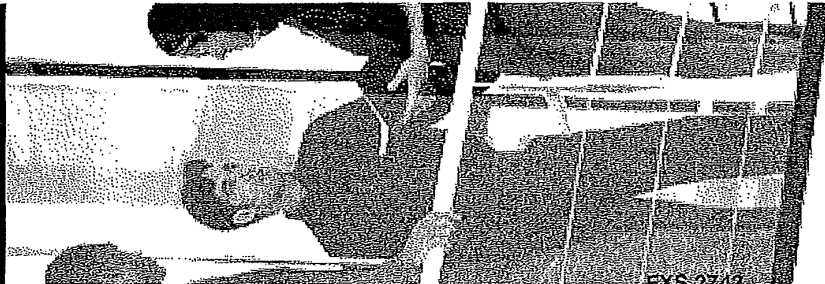
29



Management Practices and the Law

Hiring

- Applicant pool
- Interview process
- Selection
- Offer
- Employee File



FXS 2742

FedEx
Services

January 2016

Human Resources

9



Management Practices and the Law

Applicant Pool

Affirmative Action Plans

- Established by Executive Order 11246
- Regulated by OFCCP (Office of Federal Contract Compliance Programs)
- Subject to audit
- There is an AAP for each functional division within Services because we recruit nationally
- Each plan contains a narrative & a utilization analysis

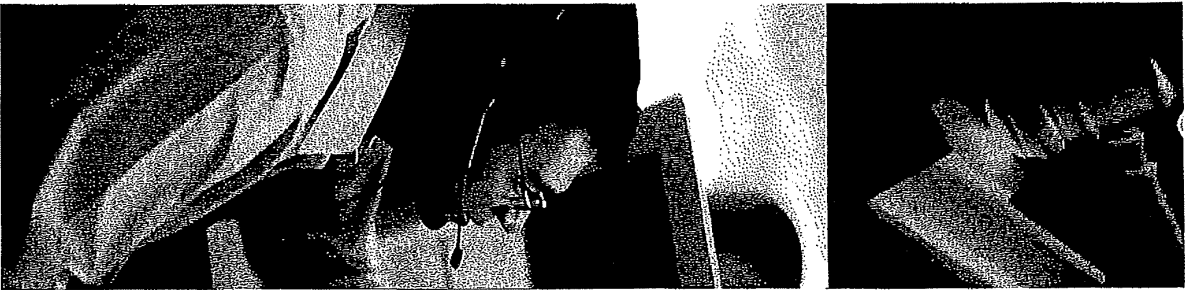


January 2016

Human Resources

10

FXS 2743



Management Practices and the Law

Negligent Hiring

25% of applicants misrepresent their accomplishments (& liabilities) on resumes and applications

The employer is liable if it knew or should have known that the employee was an unreasonable danger to others



January 2016

Human Resources

11

FXS 2744



Management Practices and the Law

The Interviewing Process

Negligent Hiring-Some Case Law

1983 Texas North Houston Pole Line Corp. v. McAllister

Employer found liable for failing to verify the driving record of a truck driver who caused a crash. Verdict \$495,000.

1985 Maryland Cramer v. Housing Opportunities Commission

Employer liable for rape by a housing inspector on a tenant. Criminal background check would have revealed convictions for robbery, assault & an indictment for rape. Employer had not contacted any previous employers & made no attempt to verify information on the application



January 2016

Human Resources

12

FXS 2745

Management Practices and the Law

Legally Acceptable Interview Questions

Legal Issues	Law	Unacceptable Interview Question	Acceptable Interview Question
Disabilities Disability-related inquiries are prohibited	Americans with Disabilities Act, (ADA) 1990 and the Vocational Rehabilitation Act (1973)	Do you have a disability that would interfere with your ability to perform the essential functions of the job? Would you need reasonable accommodation to perform this job? Do you have any physical handicaps? Have you ever been injured on the job? How many days were you sick last year?	This job requires you to sit for long periods of time while using a computer. Would you be able to do this with or without reasonable accommodations? Here is a list of attendance requirements for this job. Would you be able to meet them with or without
Age Age related inquiries are prohibited.	The Age Discrimination in Employment Act prohibits discrimination of candidates age 40 and over	How old are you? When did you graduate from high school or college?	None
Race/National Origin Questions related to race or ethnicity are prohibited.	Title VII of the Civil Rights Act (1964, 1991) prohibits discrimination based on race, color, religion, sex, or national origin	Where were you born? Are there any foreign languages you speak and write fluently? If so, what are they? What an unusual name you have. What is your nationality?	Rephrase if there is a job requirement, e.g. This job requires that you take product orders from some of our international customers. Are there any foreign languages that you speak or write fluently?
Religion Questions related to religious affiliation are prohibited; you are obligated to make a reasonable attempt to schedule employees' time off for their recognized religious observance.	Title VII of the Civil Rights Act (1964, 1991) prohibits discrimination based on race, color, religion, sex, or national origin	Is St. Justin's a parochial school? Where do you attend church? Can you work on Sundays? Can you work on Saturdays? Can you work Friday evenings?	Rephrase if a job requirement, e.g., This job requires some weekend work. Would you be able to work an occasional Saturday or Sunday?



January 20 July 2015

Human Resources

13

FXS 2746

Management Practices and the Law

Legally Acceptable Interview Questions

Legal Issues	Law	Unacceptable Interview Questions	Acceptable Interview Questions
<u>Marital Status</u> Questions related to marital status are prohibited	Title VII of the Civil Rights Act (1964, 1991) prohibits discrimination based on race, color, religion, sex, or national origin	Most of the people who work here are married. Do you think you'd have any trouble fitting in?	NONE
<u>Number of Dependents</u> Questions about the number of children or dependents are prohibited in an interview.	Title VII of the Civil Rights Act (1964, 1991) prohibits discrimination based on race, color, religion, sex, or national origin	How many children do you have? Do you have children at home? Do you plan to have children? Where do your children go to school?	NONE
<u>Child Care</u> Childcare issues should not be addressed in	Title VII of the Civil Rights Act (1964, 1991) prohibits discrimination based on race, color, religion, sex, or national origin	Do you have reliable childcare? Who will take care of you children while you're working?	NONE
<u>Housing</u> Questions about housing should not be asked in an interview	Title VII of the Civil Rights Act (1964, 1991) prohibits discrimination based on race, color, religion, sex, or national origin	Do you own your home, or do you rent? Where do you live? How long did it take you to get here?	NONE
<u>Military Service</u> Veteran Status	Title VII of the Civil Rights Act (1964, 1991) prohibits discrimination based on race, color, religion, sex, or national origin. It may have adverse impact, VEVRA, USERRA	What type of discharge did you receive from the Army?	What experience or training did you have in the services that prepared you for this position?



January 2016

Human Resources

14

FXS 2747



Management Practices and the Law Selection

TESTS vs. EXERCISES

Test: Measures cognitive skills such as judgment, integrity, sales ability

Exercise: Demonstrates a skill such as typing tests, writing sample

TESTING REQUIRES VALIDATION



January 2016

Human Resources

15

FXS 2748



Management Practices and the Law

Offer Letters

- Contingent letters
- No start date prior to meeting contingency



January 2016

Human Resources

16

FXS 2749

Management Practices and the Law

- **Employee File**

You should begin a personnel file for each employee on the date of hire. Employee history documents include:

- Job description, job application and resume, job related skills test, offer of employment, IRS form W-4, confirmation of equipment used, performance evaluations, forms relating to employee benefits, forms providing next of kin and emergency contacts, awards or citations for excellent performance, education/tuition reimbursement, employee calendars, confirmation of personal, vacation and sick time used, disciplinary actions, termination letter

DO NOT include:

- *Medical history/records, Form I-9s, EEO reports*

HARD COPY MUST BE KEPT FOR THE LENGTH OF EMPLOYMENT + 7 YEARS



January 2016

Human Resources

17

FXS 2750



Management Practices and the Law

Immigration Reform & Control Act (1986) (IRCA)

**Requires all employees hired after 11/6/1986 to
prove:**

1. Their identity
2. Their legal right to work in the US

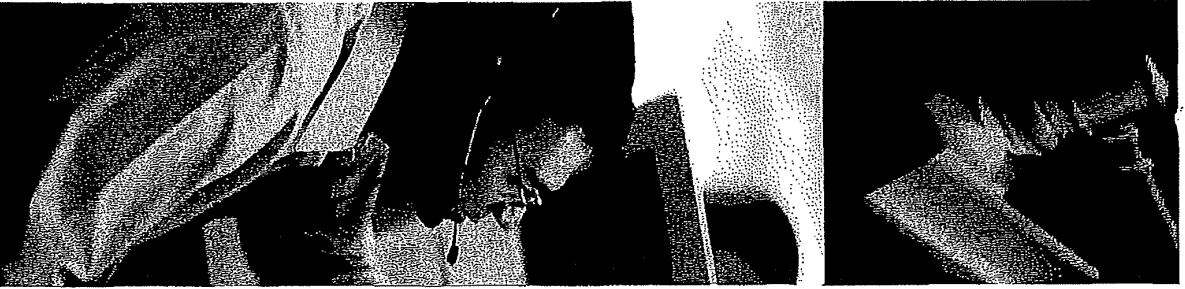


January 2016

Human Resources

18

FXS 2751



Management Practices and the Law

Employing Foreign Nationals

- Only certain types of visas allow the individual to work in the US
- All visas have expiration dates & the company is subject to penalties for permitting anyone to work with an expired visa
- Most common work-related visas are:
 - F-1 – Student practical training – 1 yr.
 - H-1B – 3 yrs with 3 yr extension. Specialized jobs for which no US worker is available
 - L-1 – Transfer within the company



January 2016

Human Resources

19

FXS 2752



Management Practices and the Law

Vietnam Era Veterans Re-employment Act (1974) (VEVRA)

Protects "special disabled veterans", veterans of the Vietnam Era & other veterans who served on active duty during a war or campaign



January 2016

Human Resources

20

FXS 2753



Management Practices and the Law

Sex Discrimination

- Any employment decision or action based upon a person's gender
- The gender-based protection from sexual harassment comes from Title VII



January 2016

Human Resources

30

FXS 2754



Management Practices and the Law

Sexual Harassment Awareness for Management

Why?

In fiscal year 2013, EEOC resolved 93,272 new charges of discrimination.

EEOC resolved 97,252 charges in FY13 and recovered \$372.1 million in monetary relief for Charging Parties and other aggrieved individuals and \$39 million through litigation.



January 2016

Human Resources

31

FXS 2755



Management Practices and the Law

What is Sexual Harassment?

A form of sex discrimination

- Prohibited by the law
- Prohibited by FedEx Services Anti-Harassment Policy (in policy section at the end of the book)
- Prohibited by FedEx Code of Business Conduct



January 2016

Human Resources

33

FXS 2756



Management Practices and the Law

Anti-Harassment Policy

FedEx Services does not tolerate any form of harassment.

It is every employee's responsibility to report any incidents of harassment, including sexual harassment, based upon race, religion, sex, color, age, genetic information, disability, national origin, veteran status, sexual orientation, gender identity, gender expression or any other characteristic protected under federal, state, or local law immediately to a member of management or Human Resources. (An Employee Information Statement form should be completed and returned to Human Resources; however, it is not required).

It is the intent of this policy that all employees have an avenue to report such incidents to a member of management who is not involved in the harassment being reported. Any member of management who receives a complaint about harassment should immediately report it to Human Resources.



January 2016

Human Resources

34

FXS 2757



Management Practices and the Law

Code of Business Conduct

The Code of Business Conduct requires that you avoid any activity or interest which might reflect unfavorably upon the integrity of you or FedEx.

You may be disciplined, up to and including termination, for failing to report a potential conflict or relationship.

- This could include a situation where a supervisory employee begins dating an employee who is subject to his/her supervision.



January 2016

Human Resources

35

FXS 2758



Management Practices and the Law

Categories of Sexual Harassment

- Tangible Job Actions
- Hostile Environment



January 2016

Human Resources

36

FXS 2759



Management Practices and the Law

What are “Tangible Job Actions?”

Unwelcome sexual comments, physical contact, or requests for sexual favors that affect a term or condition of an individual’s employment

Examples:

- hiring/firing
- promotion/failure to promote
- demotion
- undesirable reassignment



January 2016

Human Resources

37

FXS 2760



Management Practices and the Law

What is “Hostile Environment” Sexual Harassment?

Unwelcome sexual conduct that unreasonably interferes with an individual's job performance or creates an intimidating, hostile, or offensive work environment.



January 2016

Human Resources

38

FXS 2761



Management Practices and the Law

What are behaviors that can be perceived as Sexual Harassment?

- Verbal Harassment
- Nonverbal Harassment
- Pressure for sexual activities



January 2016

Human Resources

39

FXS 2762



Management Practices and the Law

Verbal Sexual Harassment may include:

- Requesting sexual favors
- Jokes of a sexual nature
- Unwanted requests for dates
- Unwanted sexual teasing, jokes, remarks, or questions
- Referring to an adult as “hunk”, “boy”, “girl”, “honey”, “baby”, “hottie”, etc.
- Any discussion about a person’s sex life (regardless of “true” or “rumor”)
- Turning work discussions into sexual topics
- Unwanted calls to person’s home regarding sex or sexual content
- Asking about sexual preferences, fantasies, or history



January 2016

Human Resources

40

FXS 2763



Management Practices and the Law

Non-Verbal Sexual Harassment may include:

- Unwanted touching or hugging
- Leaning over, cornering, or brushing up against a person
- Winking, throwing kisses, licking lips, sexual gestures with one's hands/body
- Touching or rubbing oneself sexually
- Leering at someone's body
- Displaying sexually explicit or degrading materials that others find offensive
- Giving personal (unwelcome) gifts

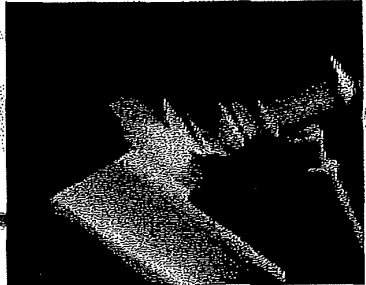


January 2016

Human Resources

41

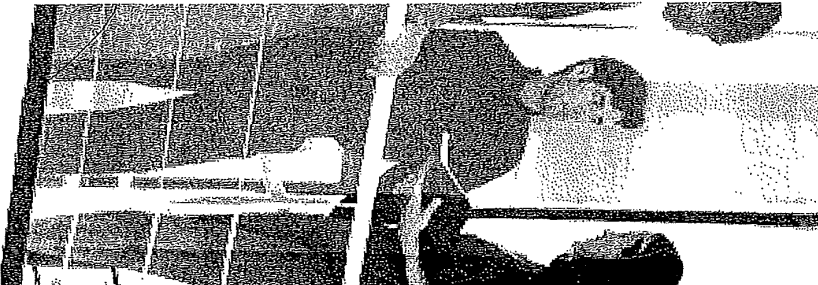
FXS 2764



Management Practices and the Law

Where can Sexual Harassment occur and by whom?

- Work locations
- Customer locations
- After work hours
- Co-workers
- Managers
- Customers/Vendors
- Both males and females can be victims of sexual harassment as well as guilty of sexual harassment

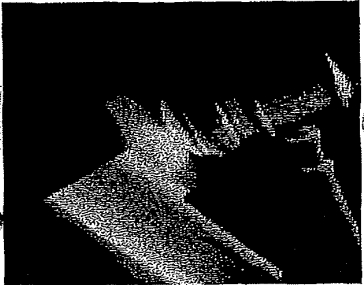


January 2016

Human Resources

42

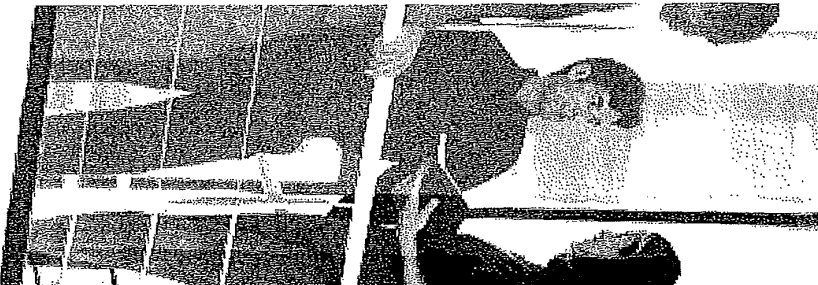
FXS 2765



Management Practices and the Law

Most Common Complaints

- 72% cited offensive remarks
- 59% cited offensive jokes/teasing
- 37% cited unwelcome touching
- 72% named co-worker as alleged harasser



January 2016

Human Resources

43

FXS 2766



Management Practices and the Law

Intent vs. Impact : Does it Matter?

Whether or not conduct is sexual harassment is determined from the perspective of the victim, NOT the intent of the harasser

"Would you think this behavior was appropriate if directed at a member of YOUR family?"

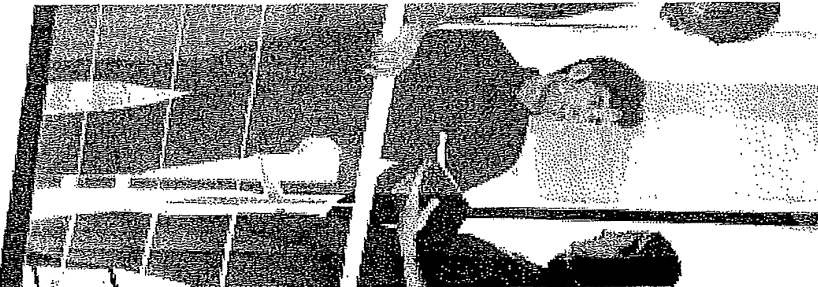


January 2016

Human Resources

44

FXS 2767



Management Practices and the Law

Liability

- The Company may be liable if a manager knows, or should have known, of offensive conduct and failed to take corrective action
- Unlawful sexual harassment can result in both compensatory and punitive damages
- The harasser also may be personally liable

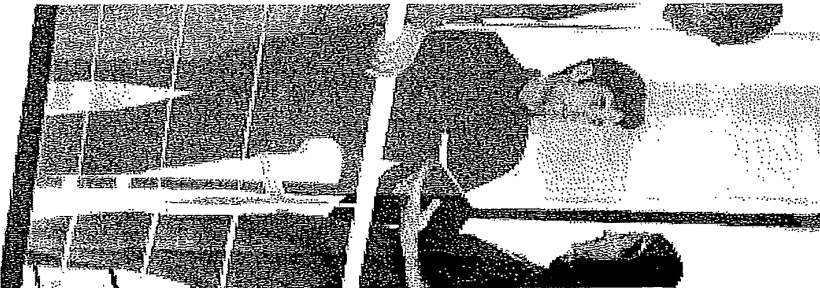
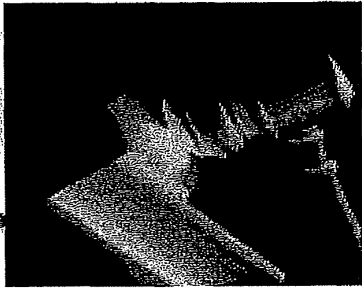


January 2016

Human Resources

45

FXS 2768



Management Practices and the Law

What is Sexual Harassment?

California's Fair Employment & Housing Act (FEHA) prohibits discrimination on the basis of sex, race, color, creed, religion, national origin, ancestry, age, physical disability, mental disability, medical condition, marital status, pregnancy, and sexual orientation.

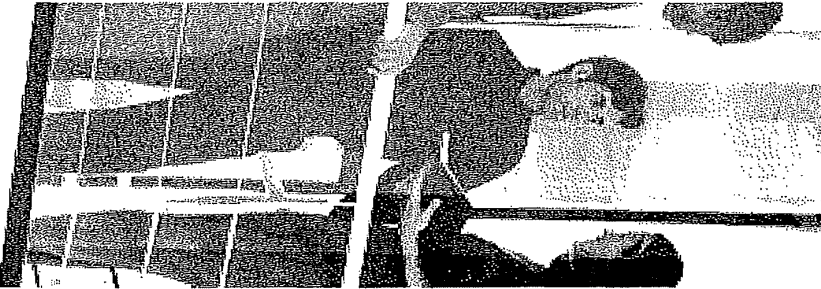
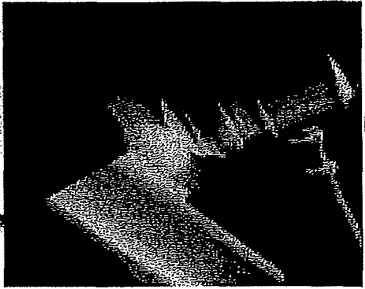


January 2016

Human Resources

46

FXS 2769



Management Practices and the Law

California Definitions

FEHA defines harassment because of sex as including:

- sexual harassment
- gender harassment
- harassment based on pregnancy, childbirth, or related medical conditions



January 2016

Human Resources

47

FXS 2770



Management Practices and the Law

Common Examples of Sexual Harassment Complaints in California

- An employee is fired or denied a job or an employment benefit because he/she refused to grant sexual favors or because he/she complained about harassment. Retaliation for complaining about harassment is illegal, even if it cannot be demonstrated that the harassment actually occurred.
- An employee quits because he/she can no longer tolerate an offensive work environment, referred to as a "constructive discharge" harassment case. If it is proven that a reasonable person, under like conditions, would resign to escape the harassment, the employer may be held responsible for the resignation as if the employee had been discharged.

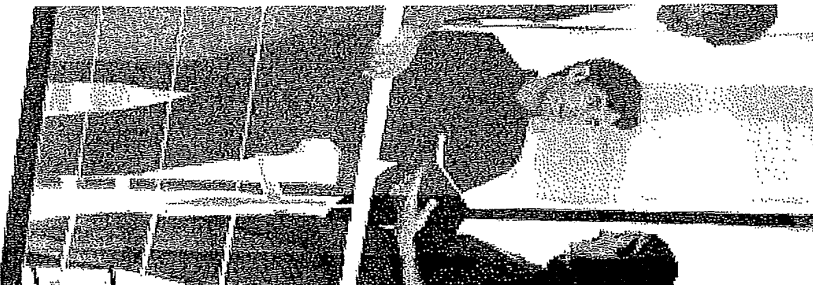
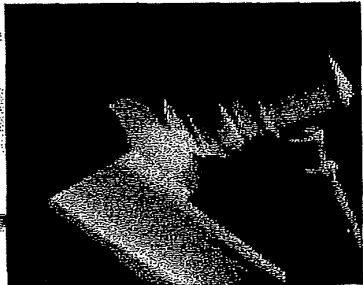


January 2016

Human Resources

48

FXS 2771



Management Practices and the Law

California Posting Requirements

Employers are required to post the Department of Fair Employment and Housing's poster "Discrimination and Harassment in Employment are Prohibited by Law" (DFEH-162).



January 2016

Human Resources

49

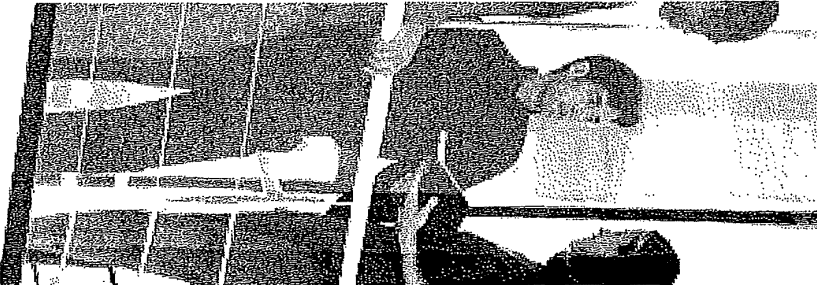
FXS 2772



Management Practices and the Law

California Training Requirements

- California employees must receive a copy of "Sexual Harassment is Forbidden by Law" (DFEH-185).
- Starting 7/1/05, all new supervisory employees must receive training within 6 months.
- Recurrence training will be required every 2 years.

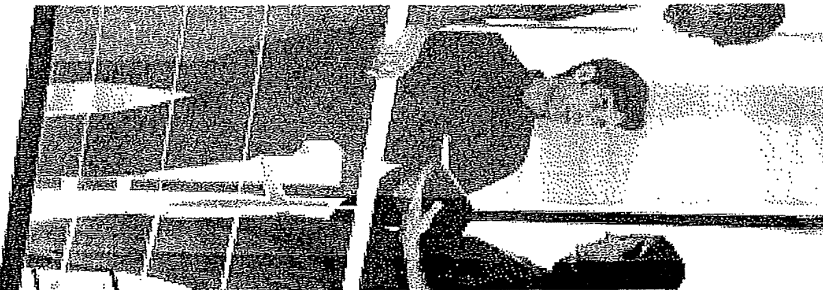
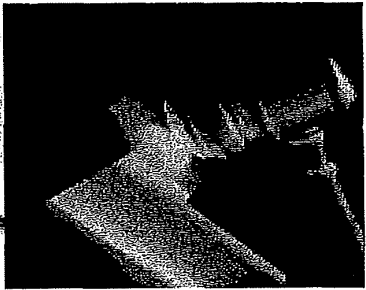


January 2016

Human Resources

50

FXS 2773



Management Practices and the Law

California Employer Liability

- Employers are prohibited from harassing employees and should ensure that they provide a “harassment-free” work place
- If harassment occurs, an employer may be liable even if management was NOT aware of the harassment

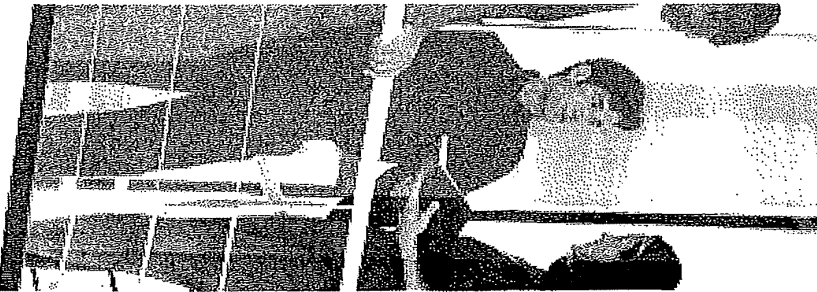
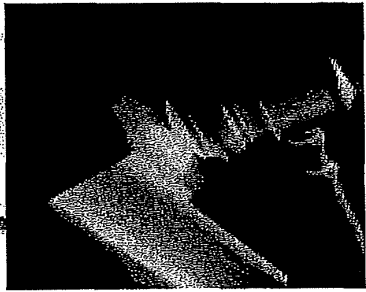


January 2016

Human Resources

51

FXS 2774



Management Practices and the Law

California Liability

- If the Commission finds that harassment occurred, it can order remedies, including up to \$150,000 in fines and/or damages
- The Commission may also order hiring or reinstatement, back pay, promotion, and training

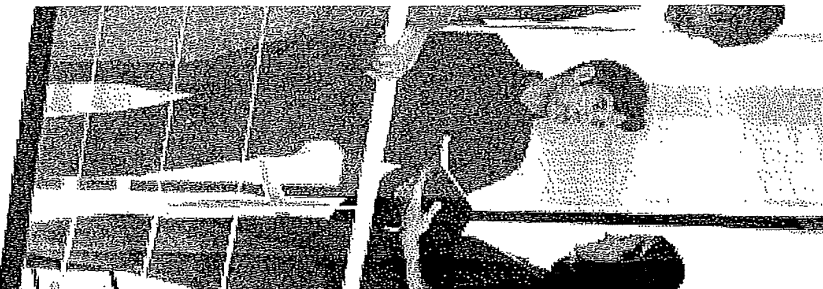


January 2016

Human Resources

52

FXS 2775



Management Practices and the Law

California Timeliness and Resources

Employees or job applicants who believe that they have been sexually harassed may, within one year of the harassment, file a complaint of discrimination with the California Department of Fair Employment and Housing



January 2016

Human Resources

53

FXS 2776



Management Practices and the Law

Connecticut's General Statutes (section 46a-60, subdivision (8))

Sec. 46a-60. (Formerly Sec. 31-126). Discriminatory employment practices prohibited.

(a) It shall be a discriminatory practice in violation of this section:

"Sexual harassment" shall, for the purposes of this section, be defined as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment



January 2016

Human Resources

54

FXS 2777



Management Practices and the Law

Connecticut Posting Requirements

Employers must post notices to employees concerning the illegality of sexual harassment and remedies available to victims of sexual harassment.

- Any and all notices so posted will have the heading, "SEXUAL HARASSMENT IS ILLEGAL" in large bold-faced type
- Sample poster & posting requirement is available on FIND IT FAST (keyword = finditfast)



January 2016

Human Resources

55

FXS 2778



Management Practices and the Law

Connecticut Timeliness and Resources

Connecticut law requires that a formal written complaint be filed with the commission within 180 days of the date when alleged harassment occurred.

If you feel that you have been discriminated against, contact:

The Connecticut Commission on Human Rights and Opportunities (CHRO), 21 Grand Street, Hartford, Connecticut 06106.
(Telephone Number 860-541-3400 or 800-477-5737).



January 2016

Human Resources

56

FXS 2779



Management Practices and the Law Connecticut Liability

Individuals who commit acts of sexual harassment
may be subject to both civil and criminal
penalties



January 2016

Human Resources

57

FXS 2780



Management Practices and the Law

Connecticut Remedies for Sexual Harassment Cases

Include, but are not limited to:

- Cease and desist orders
- Hiring, promotion or reinstatement
- Compensatory damages and back pay

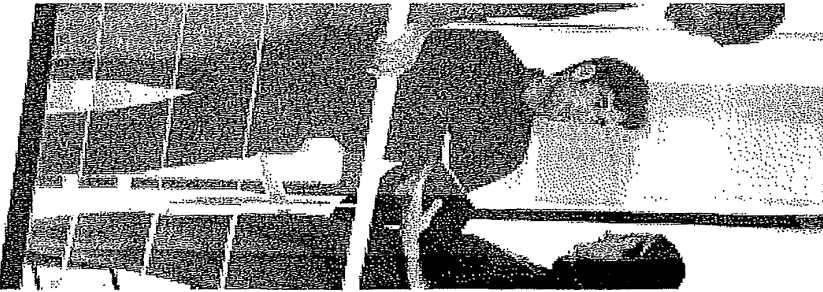
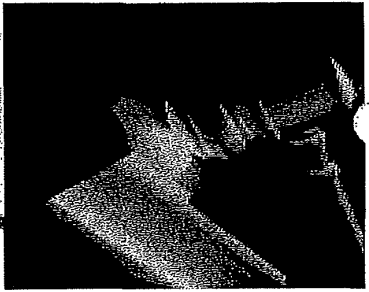


January 2016

Human Resources

58

FXS 2781



Management Practices and the Law

Connecticut Resources

If you need additional information, contact:

The Permanent Commission On The Status Of Women
18-20 Trinity Street
Hartford, Connecticut 06106

Telephone Number (860) 240-8300

e-mail: pcsw@po.state.ct.us

website: www.cga.state.ct.us/pcsw/

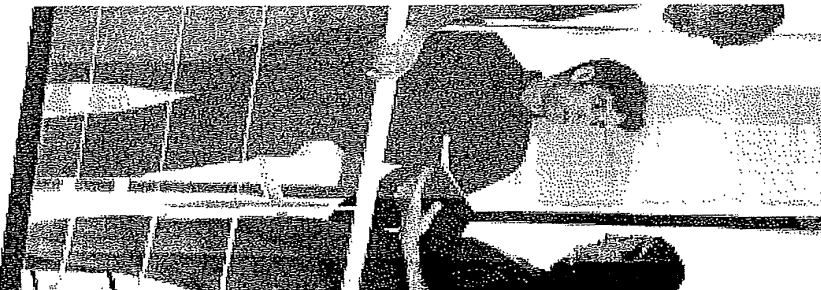
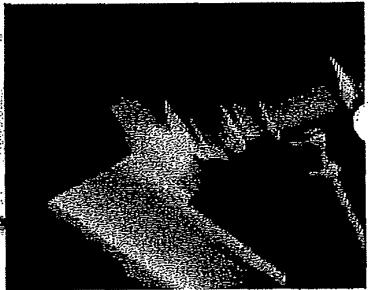


January 2016

Human Resources

59

FXS 2782



Management Practices and the Law

Maine Human Rights Commission

HOW TO FILE A CHARGE UNDER THE MAINE HUMAN RIGHTS ACT

WHO MAY FILE

Any person who believes that he or she has been subjected to unlawful discrimination covered under the Maine Human Rights Act may file a charge with the Commission

WHEN TO FILE

- A charge should be filed with the Maine Human Rights Commission as soon as possible after the act of discrimination occurs
- A charge must be filed within 6 months of the date of discrimination

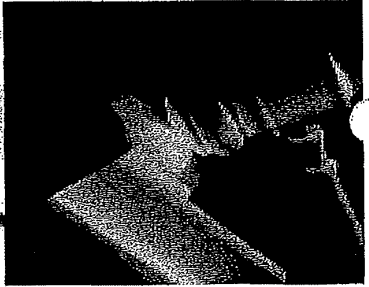


January 2016

Human Resources

60

FXS 2783



Management Practices and the Law

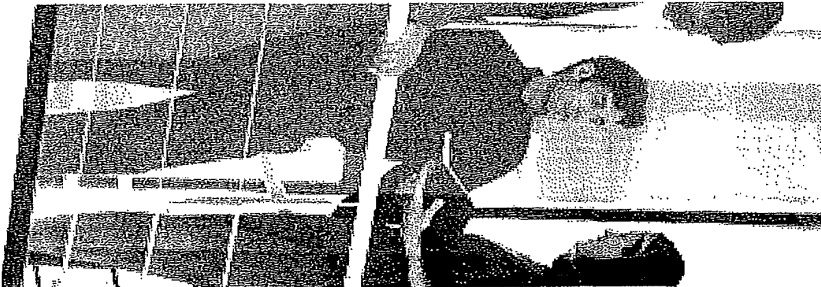
Maine Human Rights Commission

HOW TO FILE

- Charges may be filed in person or by mail by filling out a form provided by the Commission. The Commission will not accept charges by FAX or at its internet address.
- A charge must be sworn to under oath before a Notary Public or other person authorized by law to administer oaths.

WHERE TO FILE

- Charges must be filed at the office of the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333-0051.

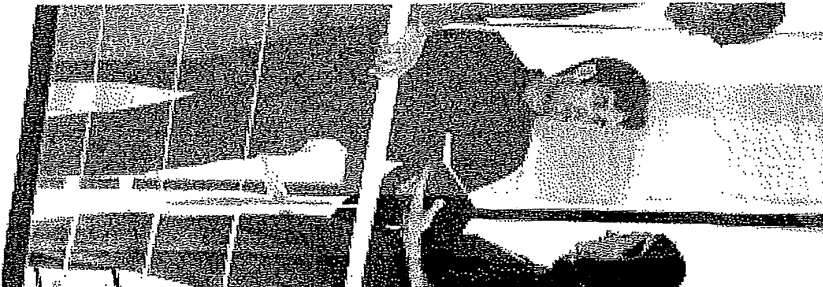
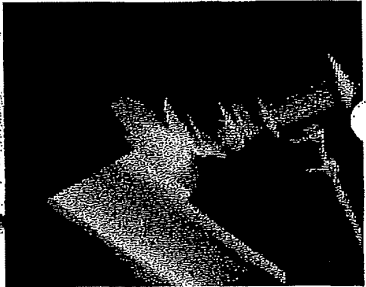


January 2016

Human Resources

61

FXS 2784



Management Practices and the Law

Maine Human Rights Commission

HOW TO START THE PROCESS

A charge may be initiated by calling, writing, or visiting the Commission's office. An INTAKE QUESTIONNAIRE may be completed, and submitted. An Intake Officer will assist you with drafting a charge.

You can also obtain further information at:

<http://www.state.me.us/mhrc/FILING/charge.htm>



January 2016

Human Resources

62

FXS 2785



Management Practices and the Law

Maine Remedies for Sexual Harassment Cases

Individuals who commit acts of sexual harassment may be held personally liable



January 2016

Human Resources

63

FXS 2786

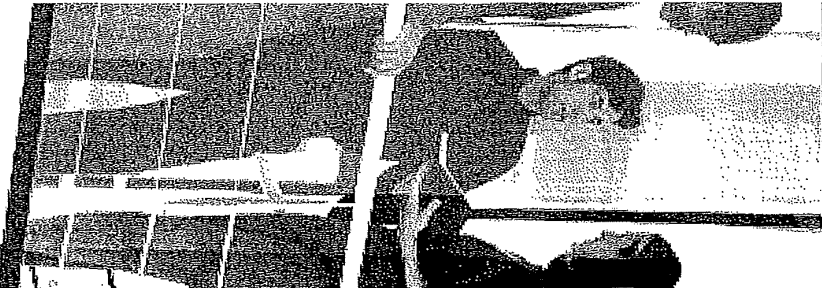


Management Practices and the Law

What can **YOUR EMPLOYEES** do if faced with unwelcome behavior?

Employees should be encouraged to:

- If comfortable, tell the person that the behavior is offensive and to stop immediately
- Report unwelcome behavior to the manager, director, or HR Advisor



January 2016

Human Resources

64

FXS 2787



Management Practices and the Law

As a Manager, what should I do if any employee alleges harassment?

- Listen to the complaint
- Provide Internal EEO complaint form to employee
- Notify your HR Advisor
- Immediately ensure that the employee is protected from further harassment
- Advise the alleged harasser not to contact the alleged victim
- Protect the employee from retaliation
- Set the tone and standard for appropriate business conduct



January 2016

Human Resources

65

FXS 2788



Management Practices and the Law

Employees are protected against retaliation

- Don't reassign the alleged victim to a "less desirable" work schedule, duties, or location
- Don't force the alleged victim to meet or work with the alleged harasser while the investigation is on-going
- Don't discipline for arguments/confrontations with the alleged harasser
- Don't turn the investigation into a persecution of the alleged victim
- Don't interfere with the investigation
- Do maintain the confidentiality of the investigation



January 2016

Human Resources

66

FXS 2789



Management Practices and the Law

Where can management get assistance?

Managers are NOT ALONE...

1) Consult your HR Advisor

2) Legal help is a phone call away!

James H. Ferguson, General Counsel

Phone: (901) 818-7203 or Email: jhferguson1@fedex.com

Lynn Diebold, Labor and Employment Attorney

Phone: (901) 818-7737 or Email: lynn.diebold@fedex.com

Mary Beard, Labor and Employment Attorney

Phone: (901) 818-7306 or Email: mhbeard@fedex.com

Amy Dudek, Labor and Employment Attorney

Phone: (901) 818-6606 or Email: amy.dudek@fedex.com

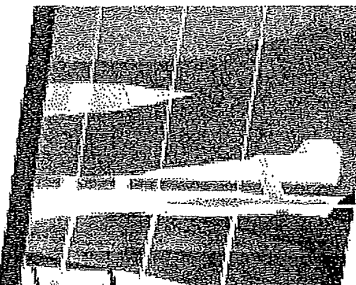
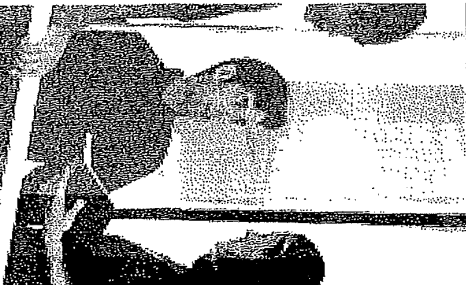


January 2016

Human Resources

67

FXS 2790



Management Practices and the Law

- **UNDERSTAND SEXUAL HARASSMENT**, what it is and how it affects people and the workplace
- **RESPOND IMMEDIATELY** if you are the victim or the harassment is reported to you or witnessed by you
- **TEACH YOUR EMPLOYEES** how to be sensitive to sexual harassment issues when interacting with other employees and customers
- **WORK WITH YOUR MANAGEMENT TEAM AND HR** to make sure that your work environment is harassment-free



January 2016

Human Resources

68

FXS 2791



Management Practices and the Law

SEXUAL HARASSMENT IS NOT TOLERATED AT FEDEX

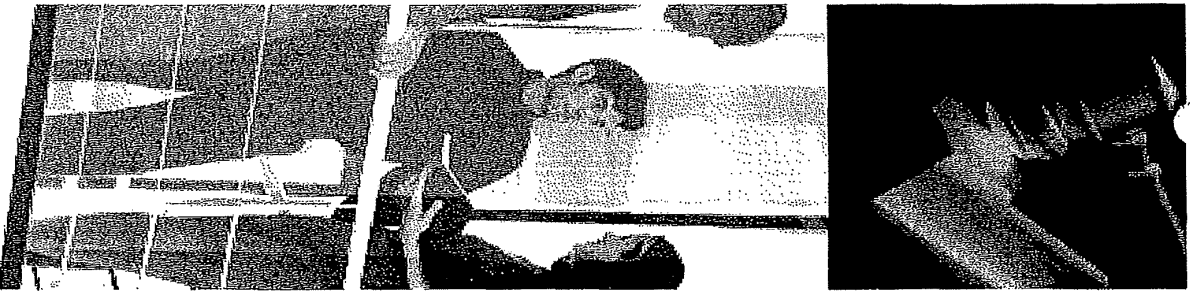


January 2016

Human Resources

69

FXS 2792



Management Practices and the Law

Age Discrimination in Employment Act (1967) (ADEA)

- Protects those 40 and over from discrimination in any aspect of employment
- Protects “younger” older workers

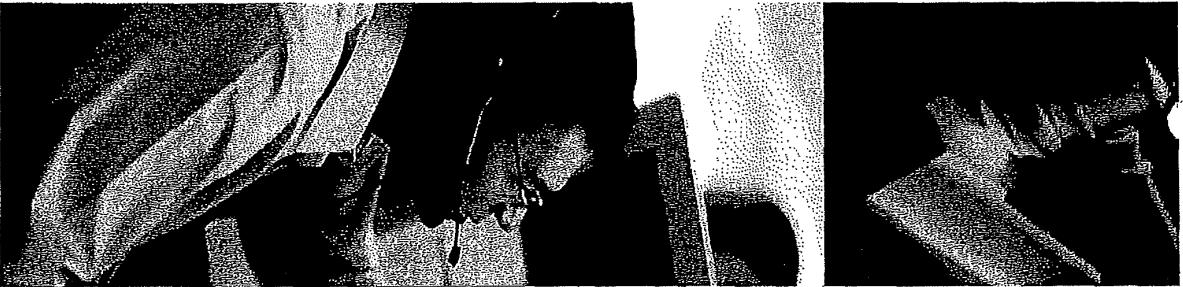


January 2016

Human Resources

70

FXS 2793



Management Practices and the Law

Americans with Disabilities Act (ADA)

- Employee Initiated
- Protects “Otherwise qualified individuals who can perform the essential functions of the job with or without a reasonable accommodation.”

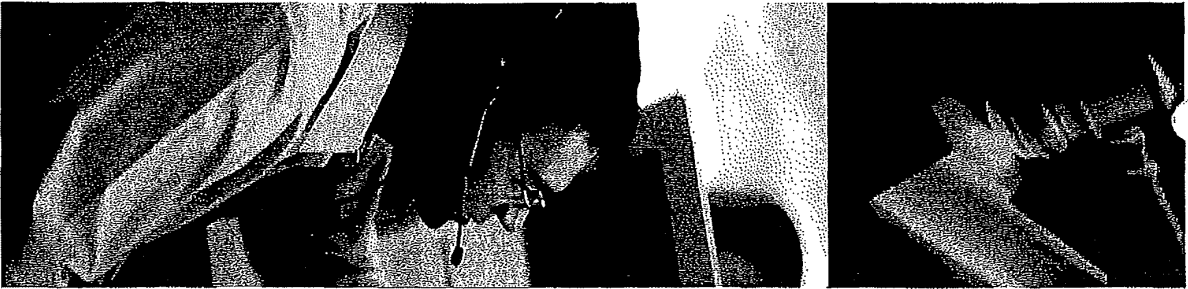


January 2016

Human Resources

71

FXS 2794



Management Practices and the Law

Americans with Disabilities Act (ADA)

- Major Life Functions
- Essential Functions
- Reasonable Accommodations
- Interactive Process
- HCMP Process
 - Request for Accommodation
 - Committee



January 2016

Human Resources

72

FXS 2795



Management Practices and the Law

Family Medical Leave Act (FMLA)

Covers:

- Employee's own serious health condition
- Employee's care for the serious health condition of a spouse, parent or child
- Birth of a child
- Adoption or foster care placement of a child
- Military exigency leave
- Care for an injured or sick family member who incurred the injuries or illness as a result of active military duty ("Wounded Warrior")
- Employer Initiated.
- Must have worked at least twelve (12) months in the past seven (7) years for employer.
- Must have worked 1,250 hours in preceding twelve (12) month period.
- Provides up to 12 weeks unpaid leave. May be intermittent.
- Does not count against attendance.
- State Laws vary.

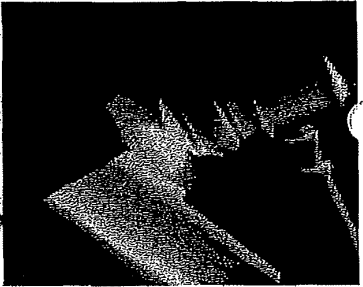


January 2016

Human Resources

73

FXS 2796



Management Practices and the Law

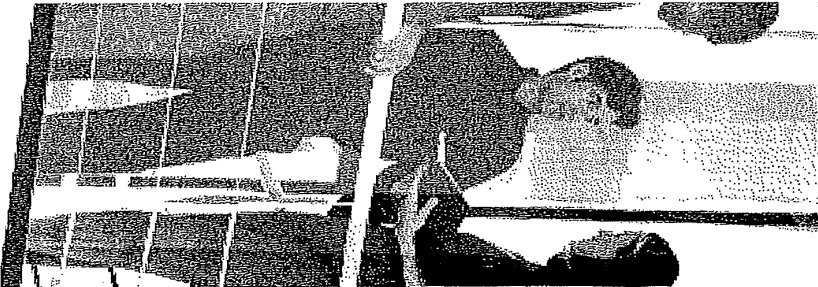
STD/LTD

- These leaves are part of our benefit plans
- STD runs concurrently with FMLA

Personal

- Personal leaves can be used where the employee has not yet met the requirements for FMLA. Consult with your HR advisor prior to authorizing leave.

Note: State laws vary – crime victim leaves, school program leaves, witness leaves, etc. – CONSULT ELM



January 2016

Human Resources

74

FXS 2797



Management Practices and the Law

Rights under NLRA

Employees may:

- * Organize
- * Join
- * Form
- * Assist
- * Engage in concerted activity
- * Bargain collectively

Employers may:

- * Resist union organizing attempts
- * Make their positions about organizing known to employees



January 2016

Human Resources

77

FXS 2798



Management Practices and the Law

TIPS & FOE

Management may NOT:

- Threaten
- Interrogate
- Promise
- Spy

Management may express:

- Facts
- Opinions
- Examples

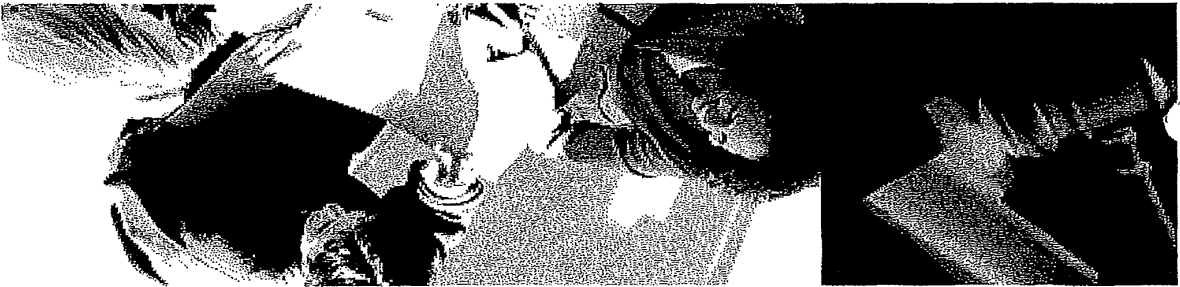


January 2016

Human Resources

78

FXS 2799



Management Practices and the Law

Solicitation & Distribution

Solicitation = Any form of approach for membership, subscriptions, money, gifts, or purchase of merchandise, tickets or services.

Distribution = Disbursements of any literature, merchandise or thing not part of the normal course of business.



January 2016

Human Resources

79

FXS 2800



Management Practices and the Law

Solicitation & Distribution (cont.)

Solicitation is permitted by employees provided it doesn't disrupt work

Distribution by employees on behalf of charities or community organizations is permitted

- During non-work times
- In non-work areas
- By non-working employees

Use of any corporate resource by non-management employees including e-mail & comat is **PROHIBITED**

Solicitation & distribution by third parties on company property is **PROHIBITED** at all times.



January 2016

Human Resources

80

FXS 2801



Management Practices and the Law

Uniformed Services Employment & Reemployment Act

- Covers employees who serve in any branch of the military – voluntary or draft.
- Employee must be put in the same position as though no leave had occurred including raises, promotions & bonuses. (Escalator principle)
- Five year time period.

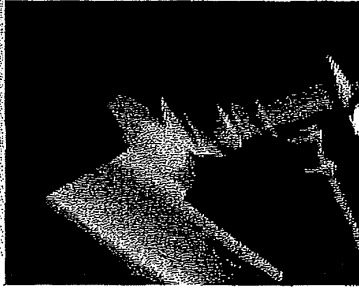


January 2016

Human Resources

81

FXS 2802



Management Practices and the Law

Key Processes

- Management Actions/ Disciplinary Decisions
- EXPLORE
- Alert Line
- Internal EEO
- External EEO
- Litigation



January 2016

Human Resources

82
FXS 2803



Management Practices and the Law

Alert Line

- Operated by In-Touch
- Anonymous, confidential reporting of
 - Suspected business misconduct
 - Financial, legal or ethical violations

1-866-426-3339 (Toll Free)



January 2016

Human Resources

83

FXS 2804



Management Practices and the Law EEO Statistical Charge Data

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Total Charges	75,768	82,792	95,402	93,277	99,922
Race	27,238	30,510	33,937	33,579	35,890
	36.2%	37.0%	35.6%	36.0%	35.9%
Sex	23,247	24,826	28,372	28,028	29,029
	30.7%	30.1%	29.7%	30.0%	29.1%
National Origin	8,327	9,396	10,601	11,134	11,304
	8.3%	11.4%	11.1%	11.9%	11.3%
Religion	2,541	2,880	3,273	3,386	3,790
	2.1%	3.5%	3.4%	3.6%	3.8%
Age	16,548	19,103	24,582	22,778	23,264
	19.6%	23.2%	25.8%	24.4%	23.3%



January 2016

Human Resources

84

FXS 2805



Management Practices and the Law EEO Statistical Charge Data

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Total Charges	75,768	82,792	95,402	93,277	99,922
Retaliation- All	22,555	26,663	32,690	33,613	36,258
	22.6%	32.3%	34.3%	36.0%	36.3%
Retaliation- Title VII only	19,560	23,371	28,698	28,948	30,948
	20.3%	28.3%	30.1%	31.0%	31.0%
Disability	15,575	17,734	19,453	21,451	25,165
	22.4%	21.4%	20.4%	23.0%	25.2%
Equal Pay Act	861	818	954	942	1,044
	1.4%	1.0%	1.0%	1.0%	1.0%
GINA	N/A	N/A	N/A	N/A	201
	N/A	N/A	N/A	N/A	0.2%



January 2016

Human Resources

85

FXS 2806



Management Practices and the Law

If an employment claim goes to litigation?

- **Who testifies?**
 - YOU DO!
- **What will you say?**
 - Rationale
 - Why did you make the decision you made



January 2016

Human Resources

86

FXS 2807



Management Practices and the Law

Litigation

- Complaint
- Answer
- Discovery
- Summary Judgment
- Trial



January 2016

Human Resources

87

FXS 2808



Management Practices and the Law

I've been served legal documents, Now what?

Subpoenas – Send to Kim Gillum

Garnishments – Send to Payroll

Lawsuits – Send to Lynn Diebold, Mary Beard
or Amy Dudek

Requests for references or employment verification – The
Work Number

1-800-367-5690 or www.theworknumber.com/verifier

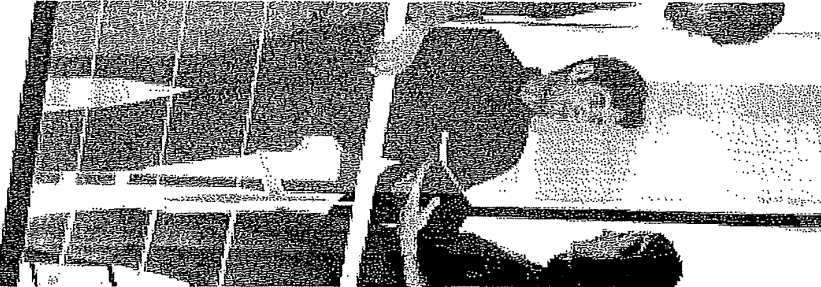
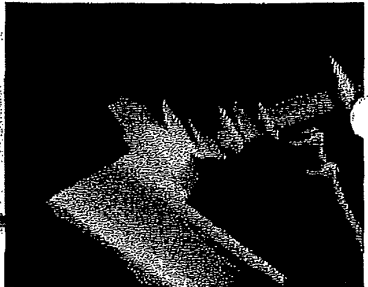


January 2016

Human Resources

88

FXS 2809



Management Practices and the Law

Protecting Confidentiality

- Privileged and Confidential
- Attorney/Client Privilege
- Proprietary/Trade Secret

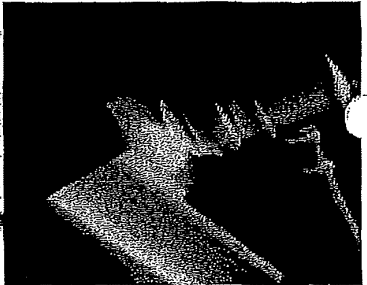


January 2016

Human Resources

89

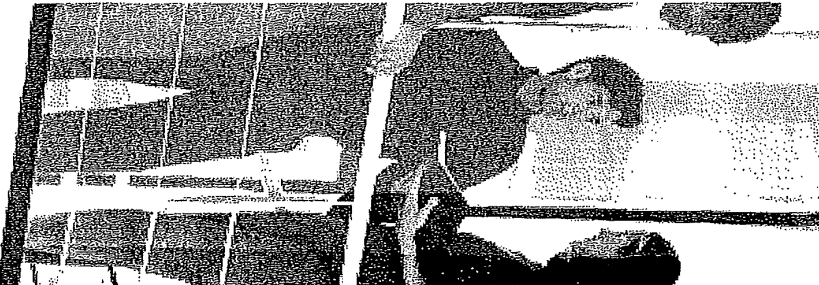
FXS 2810



Management Practices and the Law

Unemployment Compensation

- Administered by EQUIFAX, a vendor
- Upon receipt of an unemployment claim immediately contact TALX at 1-800-848-0287 and Fax to 1-866-622-6236,
Attn: April Etheridge
- TALX will need:
 - The termination letter
 - Supporting documentation (not the investigation file)
 - Employee's social security # noted on all documents
- You will be the primary contact & will need to appear at any hearings. A TALX representative will go with you.



January 2016

Human Resources

90

FXS 2811



Management Practices and the Law

Data Privacy v. Data Security

Privacy

The proper use of data.

- “Use” or processing of data = any operation which is performed upon electronic data (e.g., collection, transfer, storage, access, and destruction)
- Data Privacy means, for example, not using SSNs as public identifiers or posting DOBs on a bulletin board

Security

The protection of data.

- “Protection” = prevention of loss, unauthorized access, or misuse.
- The manner of protection depends on the type of data.
- Data Security means, for example, keeping SSNs and DOBs in a password protected file or system



January 2016

Human Resources

91

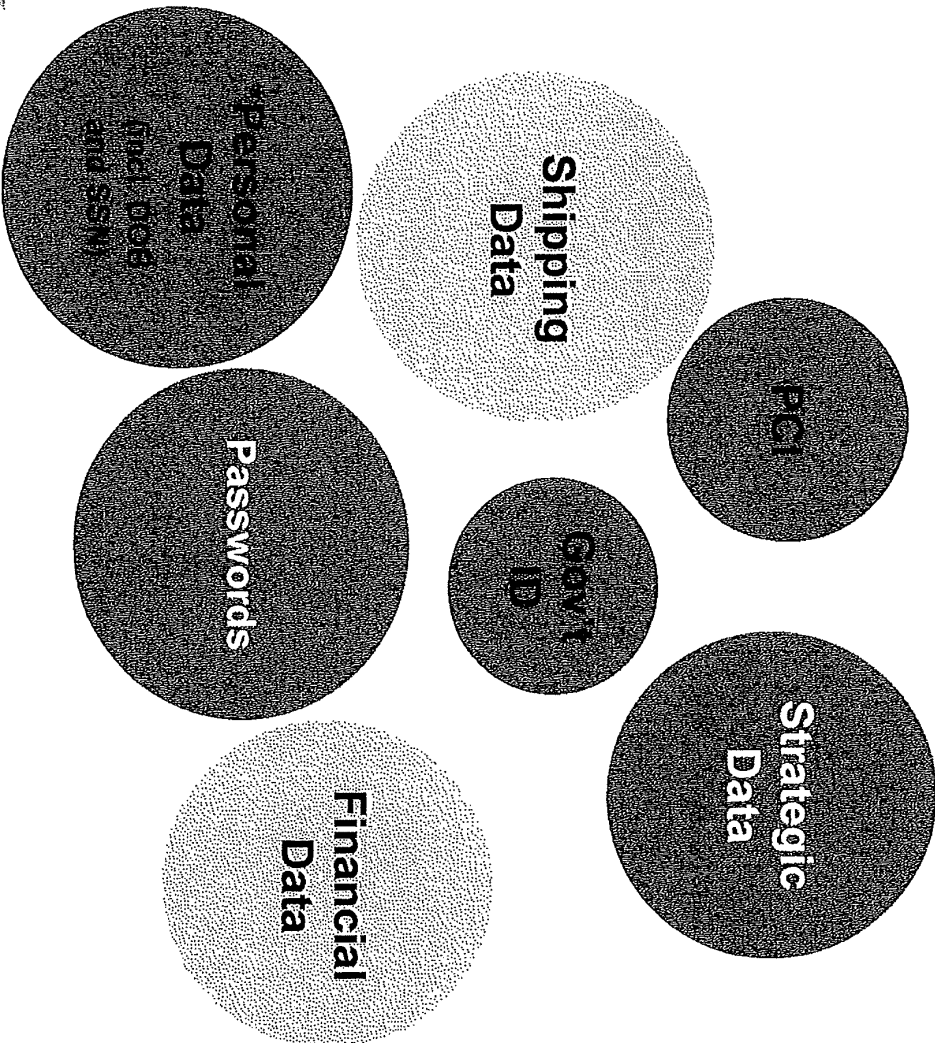
FXS 2812

What Needs to be Protected



**Sensitive?
Internal?
Public?**

***If you see
a breach
of any data,
contact Legal
immediately.**



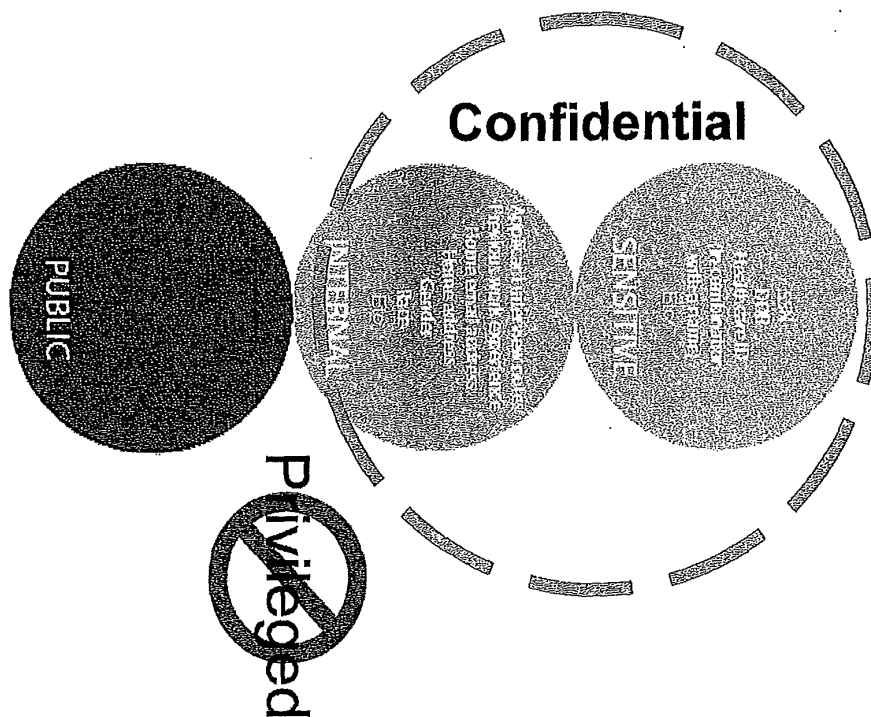
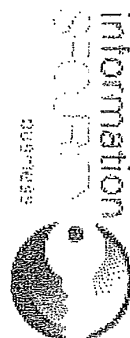
January 2016

Human Resources

92

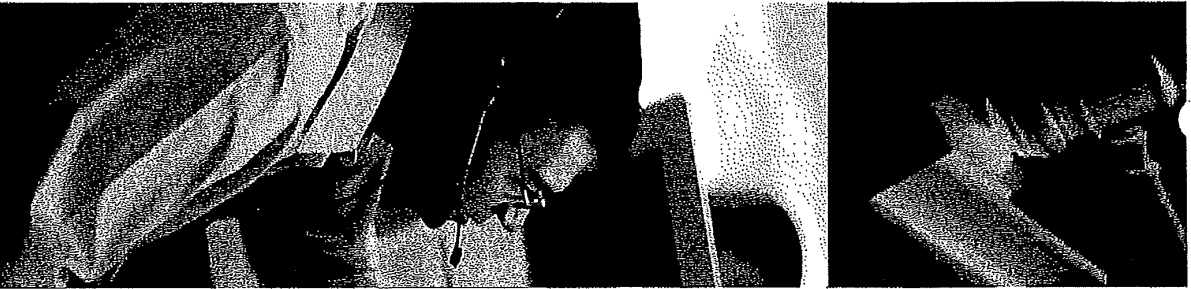
FXS 2813

Updated Data Classification



DATA CLASSIFICATION	
<p>Data Classification categorizes FedEx data so it can be adequately protected while minimizing the cost resources. The FedEx Information Security Standards are layered to address the risk associated with each data class as well as the data elements within that class. Data classification directly impacts how data is protected and managed. Improper data classification may lead to data being inappropriately secured. FedEx may be vulnerable to penalties if certain data elements are not properly secured, including, but not limited to, failure of internal audits, loss of Police/regulatory certifications, loss of business, and/or severe monetary/legal penalties.</p>	
Classification	Description
<p>Sensitive</p>	<p>FedEx company, customer and employee data that requires an additional level of protection using stringent controls as required by law or as deemed necessary by FedEx.</p>
	<ul style="list-style-type: none"> • PCI Data: <ul style="list-style-type: none"> ◦ Cardholder Data - Primary Account Number (PAN) and Expiration Date ◦ Sensitive Authentication Data - Magnetic Strip data, Card Validation Code (i.e., CVV, CV2) • Passwords, Cryptographic Key, Session ID and other resources • HR Data (HRPAI) - SSN, DOB, Healthcare ID • In combination with name or home/work e-mail • PHI Data - Name in combination with one of the following: Government issued ID, employee performance or salary data, personal phone number • Bank account (Company and Individual) in combo with Routing # or entity name • Trade Secrets/Strategic Project Data • Unannounced acquisition/operational changes • Confidential Revenue, Expense, Debt, 3 Party Data prior to regulatory disclosure
<p>Internal</p>	<p>FedEx company, customer and employee data that requires protection from being used for unauthorized purposes. All FedEx data not identified as Sensitive or Public.</p>
<p>Public</p>	<p>Data that was being publicly distributed externally to FedEx.</p>

*Note: matrices are not considered exhaustive for Internal and Public. For any clarification please contact the Logistics Standards Compliance team.



Management Practices and the Law

Services Resources List

HR

Your HR Advisor – Check PRISM contact screen

Recruiting – Alyssa Molina, HR Manager, 901-263-8724

Test Validation – Marta Brown, HR Manager, 901-263-7883

FLSA/EPA/Compensation – Taylor Wooten, HR Manager, 901-263-8878

Affirmative Action Plans – Roberta Granderson-Catron, 901-263-5654

Leaves – Rachel Sisco

Immigration – Leasa Dillow



January 2016

Human Resources

94

FXS 2815



Management Practices and the Law

Services Resources List

Legal

General Counsel – Jim Ferguson, 901-818-7203

Labor & Employment – Lynn Diebold, Attorney, 901-818-7737

Mary Beard, Attorney, 901-818-7306

Amy F. Dudek, Attorney, 901.818.6606

Becky Long, Paralegal, 901-818-7233

Kia Muhammad, Paralegal, 901-818-7413

Customer Contracts – Rusty Phillips, Director, 901-818-6650

IT Contracts – Scott Young, Director, 901-818-6630

Communications, Intellectual Property – Andy Lynn, Director, 901-818-6600



January 2016

Human Resources

95

FXS 2816



Management Practices and the Law

Services Resources List

Vendors

Unemployment – EQUIFAX, 800-848-0287

Verification of Employment – The Work Number, 800-367-5690

People Help – 800-274-4357

The Alert Line – 866-423-3339



January 2016

Human Resources

96

FXS 2817